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KAREN YARLOTT-MOLINA

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MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT, BIG HORN COUNTY

EMMA HOMER, as )  
PERSONAL REPRESENTATIVE )  
OF THE ESTATE OF KEVIN )  
DALE BORDEAUX, )

Plaintiff, )

vs. )

GORDON TRUCKING, INC., )  
ROBERT STEVEN GRIESER, and )  
DOES 1 to 10 )

Defendants )

Cause No. DV 11-24  
Judge: Blair Jones

COMPLAINT AND DEMAND  
FOR TRIAL BY JURY

**COMES NOW** the Plaintiff and for her cause of action, states as follows:

1. Plaintiff is informed and believes and based thereon alleges that this case involves an accident occurring at about 2:25 am, on April 26, 2008 in Big Horn County, Montana, at a point on U.S. Highway 212, about 1.7 miles east of the junction of Interstate 90 and U.S. Highway 212; the said accident involved a violent collision between an east-bound truck-trailer combination and a west-bound passenger auto; the accident caused personal injuries and death to Kevin Dale Bordeaux; an adult passenger in the auto.

2. Plaintiff is Emma Homer, an adult person and the duly appointed Personal Representative of the Estate of the deceased Kevin Dale Bordeaux, (birth date 9/26/86).

3. Plaintiff is informed and believes and based thereon alleges that at all times pertinent hereto Defendant Gordon Trucking, Inc. (Defendant Gordon Trucking), was a corporation or other business entity. Defendant Gordon Trucking acted at all times through their agents, servants or employees, one of whom was Defendant Grieser.

4. Plaintiff is informed and believes and based thereon alleges that Defendant Robert Steven Grieser (Defendant Grieser) is an individual over the age of majority.

5. The true names and capacities of defendants sued as Defendants Does 1 - 10, inclusive, are unknown to Plaintiff, who therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained.

6. Plaintiff is informed and believes and based thereon alleges that a 2007 Volvo, Unit # 7073, Oregon license plate number: YAFQ 775 is the truck unit involved in the said

accident, and that the truck was combined with and pulling a loaded 2002 Great Dane Trailer, Oregon license plate number: HS64330.

7. Plaintiff is informed and believes and based thereon alleges that Defendant Gordon Trucking, Inc. was the owner, operator, lessee and/or entity for whose benefit the said truck-trailer combination was being operated.

8. Plaintiff is informed and believes and based thereon alleges that at all times pertinent hereto, Defendant Grieser was acting as an employee or agent of Defendant Gordon Trucking within the scope and practice of his employment or agency, or Defendant Gordon Trucking allowed Defendant Grieser to operate their truck-trailer combination for them on the highways of Montana with the knowledge and consent of Defendant Gordon Trucking, or Defendant Grieser was operating the truck trailer for the benefit of Defendant Gordon Trucking, or Defendant Grieser was otherwise interacting as a truck driver with Gordon Trucking so that Defendant Gordon Trucking is vicariously liable for the actions of Defendant Grieser in operating or driving the truck-trailer combination. Defendants acted jointly and/or severally at all times pertinent hereto.

9. Plaintiff is informed and believes and based thereon alleges that on or about April 26, 2008, Defendants were operating a 2007 Volvo truck, pulling a loaded 2002 Great Dane trailer traveling eastbound on U.S. Highway 212 in Big Horn County, while approaching a point about 1.7 miles east of the intersection of U.S. Highway 212 and Interstate 90. At the same time, Kevin Bordeaux was a passenger in an automobile traveling

westbound on U.S. Highway 212 in Big Horn County, Montana also approaching the same point on Highway 212, but from the opposite direction.

10. Plaintiff is informed and believes and based thereon alleges that at the said time and place, Defendants owed Kevin Dale Bordeaux a duty of care including that the said truck-trailer would be reasonably and safely operated upon the highway, that said vehicles' operations would be conducted with proper and reasonably safe equipment, training, supervision, operations and safety procedures, and that said vehicles would be operated in accordance with the codes and statutes of the state of Montana and all other applicable laws and regulations.

11. Plaintiff is informed and believes and based thereon alleges that on April 26, 2008, at the time and place aforesaid Defendants and each of them breached their duties to Kevin Dale Bordeaux, and so carelessly drove, operated, maintained, conducted, controlled, and/or entrusted the truck trailer combination, and/or so carelessly trained, supervised, or hired its driver, so as to cause a violent collision between the truck-trailer unit and the automobile in which Kevin Dale Bordeaux was a passenger.

12. Plaintiff is informed and believes and based thereon alleges that the impact point of this collision is located completely outside the eastbound traffic lane in which the truck trailer combination had been traveling; and the impact point was on the outer edge of the westbound traffic lane, along the outer fog line.

13. Defendants' joint and several breaches of duty of care and negligent acts and/or omissions caused the subject accident and caused Kevin Dale Bordeaux to suffer personal

injuries and death; and/or they helped produce the injury and death and the injury and death would not have occurred without the breaches of duty and negligent acts or omissions; and/or the breaches of duty and/or the negligent acts or omissions were a substantial factor in causing the subject accident and causing Kevin Dale Bordeaux to suffer personal injuries and death.

14. Defendants are jointly and/or severally liable to Plaintiff Emma Homer for damages for causing Kevin Dale Bordeaux to suffer personal injuries and death, including damages for causes of action for wrongful death and for survivorship.

WHEREFORE PLAINTIFF EMMÀ HOMER, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF KEVIN DALE BORDEAUX PRAYS, as follows:

1. For judgment for money damages from one or both Defendants in a sum to be set by the jury.
2. For costs and interest as allowed by law.
3. For such other orders and as are necessary and proper in the circumstances.

**PLAINTIFF DEMANDS A TRIAL BY JURY.**

**DATED** this 27<sup>th</sup> day of March 2011.

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